

INSTRUCTIONS FOR FILLING OUT FORM

PURPOSE. This form is to be used when you or the opposing party has filed for either Paternity or divorce and you feel the child(ren) involved are in danger by the custody of the other party and you want custody of the children until the court decides which party gets permanent custody. Do not use this form unless you or the opposing party has filed for Paternity or Divorce. See this forms if you want to file for Paternity or Divorce.

FORM INVOLVED. The form is a **Motion for Interim Custody and Child Support**. You will need to fill in the necessary information with help from the instructions below and then file the forms with the appropriate court. Remember you need to mail a copy to the opposing party and fill out the certificate of service showing that you did mail a copy of the motion to the opposing party.

BURDEN OF PROOF. If you file a Motion for Interim Custody, you have the burden of proving that claim in court. In a typical civil case you have the burden of proving your claim by a preponderance of the evidence. This means that by representing your self in a legal matter it is your responsibility to prove your case. Don't expect the judge to prove your case for you. Proving something by a preponderance of the evidence means evidence with greater weight or that is more convincing than the evidence of the opposing party(s). You as the moving party have the burden of showing the following to the court:

1. That it would be in the child(ren)'s best interest that you be awarded interim custody of them. The courts primary concern when awarding custody is the best interest of the child(ren) and not the shortcomings of the parents. What this means is that you and your witnesses need to testify who cares for the child(ren) such as bathing, cleaning for, sheltering, feeding and generally caring for the children. Evidence or testimony of alleged immoral conduct of the opposing party is not relevant unless it has a direct bearing or effects the best interest of the child(ren). For example, if the opposing party abuses alcohol this would not be relevant unless you can show that the opposing party neglected or abused the child(ren) while abusing alcohol.

INSTRUCTIONS FOR FILLING OUT THE FORM. To fill out this form follow these instructions. The numbers to each instruction below is the number on the blank line on the form where the information for that number needs to be inserted on the form. You can print this page in its entirety or you can scroll down to the Motion form and if you scroll down father you will find the affidavit. There will be a blank screen between these instructions and the forms and between the forms so keep scrolling or just copy this page in its entirety.

Instructions for filling out the motion:

- (1) on this line insert the name of the tribal court. For example, if you are filing this claim on the Rosebud reservation you would insert Rosebud Sioux on this line.
- (2) on this line insert the name of the reservation where the court is located.
- (3) on this line insert the community where the court is located in which you are filing these

forms.

(4) on this line insert the name of the plaintiff from the order you are seeking to modify.

(5) on this line insert the name of the defendant from the order you are seeking to modify.

(6) insert your name

(7) insert the type of action you are basing your motion: either insert "Paternity" or "Divorce".

(8) insert the reasons you want interim custody and child support. You must show the court it would not be in the child(ren)'s best interest that the opposing party have custody until final hearing on the Paternity or Divorce complaint. The court will more than likely schedule a hearing on the Motion of Interim Custody so be prepared to prove your allegations at that hearing.

(9) on this line insert the day.

(10) on this line insert the month.

(11) on this line insert the year.

(12) on this line insert your name by signing.

Wherefore, the undersigned prays this court to issue an order:

A. Granting me interim custody of the child(ren) and for child support until final outcome of the complaint or in the alternative,

B. Set this matter for hearing;

C. For any other relief the court finds just and equitable.

Dated this (9)_____ day of (10)_____,(11) _____.

(12)_____
Plaintiff/Defendant

CERTIFICATE OF SERVICE

I, _____ am the undersigned an certify that I mailed a true and correct copy of this Motion for Interim Custody and Child Support upon plaintiff/defendant by first class mail at _____ (defendant's address).

Dated this (9)_____ day of (10)_____, (11)_____.

(12)_____
Plaintiff/Defendant